

Twenty-one (21) days later, on June 28, 2021, Plaintiff filed a “Consent Amended Complaint Pursuant to FRCP 15(a)(2).” Doc. 6.

“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.” Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001); see also Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”).

“A party may amend its pleading once as a matter of course within ... 21 days after service of a motion under Rule 12(b)....” Fed. R. Civ. Pro. 15(a)(1)(B). Additionally, pursuant to Rule 15(a)(2), a party may amend its pleading with the opposing party’s written consent, or with the court’s leave.

Here, Plaintiff represents that it has obtained the written consent of Defendant to file the Amended Complaint. Doc. 6 at 1. Accordingly, the Motion to Dismiss is now moot. See Colin v. Marconi Commerce Systems Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs’ filing of the Second Amended Complaint”); Ledford v. Eastern Band of Cherokee Indians, No. 1:20-CV-005-MR-DCK, 2020 WL 1042235 at 1 (W.D.N.C. March 3, 2020) (“It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot”). This denial is without prejudice to Defendant’s right to challenge the Amended Complaint, if appropriate.

IT IS THEREFORE ORDERED that the Motion to Dismiss filed by Defendant Heartland Concrete, LLC (Doc. 3) is **DENIED AS MOOT**.

Signed: June 29, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

